

The hearing

An OMB hearing is conducted in a manner similar to courtroom proceedings but it is often less formal. As an objector, you will be required to present evidence supporting your argument. You are expected to attend the hearing and present your case. If you do not withdraw your request and you do not attend the hearing, the Board may award costs against you.

Do you need a lawyer?

You are not required to retain a lawyer. However, in view of the complexity of many planning issues, it is often valuable to be represented by a lawyer who is acquainted with land use planning and OMB procedures. The choice is ultimately dependent on the individual.

If you decide to represent yourself

Be prepared to present your case in front of the Board members. It is important to be well prepared and organized as you may be questioned on your objections.

Can you withdraw your request?

Yes. If, for any reason, you wish to withdraw your request for referral you must ask the Minister to do so. Ideally, the withdrawal should be requested before the Board hearing is held. But, you may withdraw your request during the hearing, if necessary. The Minister will resume consideration of the matter

only if the Board has not made a decision. In some instances, others may have requested a referral on the same matter. If this is the case, all those who requested the referral must agree to withdraw their requests in order for the Minister to resume consideration of the matter. If you are the only one who wishes to withdraw you may do so, but the matter may still go to the OMB if others have requested a referral on the same matter.

Time and money are wasted every year by people who do not show up at hearings or withdraw a few days before the scheduled hearing date. Some last minute withdrawals are unavoidable, but when possible, let the Minister know as soon as you decide to withdraw your request.

Other points to remember

In many cases, an official plan proposal or amendment requires a change in the zoning bylaw. Therefore, in order to be consistent it may be necessary to object to the zoning bylaw as well as the official plan. To do so, you must file your objection with the clerk of the municipality within the specified time period. In addition, it may be necessary to request referral of a related subdivision to the Board.*

*It should be pointed out that in regional municipalities the Minister of Housing may be the official plan approving/referring agent while the region may be the subdivision approving/referring agent.

Additional information

Plans Administration Division
Ministry of Housing
56 Wellesley Street West
Toronto, Ontario
M7A 2K4

(416/965-6418)

Community Planning Advisory Branch

South West Region
7th Floor
495 Richmond Street
London N6A 5A9

(519/673-1611)

North West Region
435 James Street South
Thunder Bay P7C 5G6

(807/475-1651)

Central Region
2nd Floor
47 Sheppard Avenue East
Willowdale (Toronto) M2N 2Z8

(416/226-1855)

South East Region
3rd Floor
244 Rideau Street
Ottawa K1N 5Y3

(613/233-9301)

North East Region
1191 Lansing Avenue
Sudbury P3A 4C4

(705/560-0120)

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Claude F. Bennett, Minister



Ontario

Ministry of
Housing

In Ontario, official plans and official plan amendments are prepared by local municipalities, adopted by council and submitted to the Minister of Housing for approval. Often, individuals or groups may be concerned about certain proposals contained in an official plan or amendment. If you are in this position, you should notify the municipality and discuss your concerns with local planners and politicians. In most cases, the difficulties can be resolved locally. In the event that you cannot resolve the matter with the municipality, you have the option of requesting that the matter be sent to the Ontario Municipal Board (OMB). This option is provided for in The Planning Act.*

Specifically, The Planning Act states that the Minister may refer a matter to the OMB, if any individual or group requests him to do so. Section 15 states that the Minister may refer any part or parts of the plan and approve the remainder. Section 44 allows for referral of the entire plan or amendment.

In addition, section 17(3) provides for a referral request by someone who applied to the municipality for an official plan amendment. In this situation, an applicant can request referral if the proposal is turned down or if it is not dealt with by council within 30 days of receipt. (This type of referral request will not be discussed in detail in this brochure.) An OMB hearing is a costly and time-consuming process which can contribute to further delays in the development process. While the option to request referral

is open to any individual, the referral process is generally intended as a means for resolving problems which cannot be resolved locally. Therefore, before you consider requesting that the Minister refer a particular matter, you should make every effort to resolve the matter with the municipality. Your attempts at negotiation are an important consideration when the Minister is reviewing your request for referral.

This brochure is designed to be used as a basic guideline to the referral process. While the brochure provides information on how to go about requesting a referral, it should not be regarded as a substitute for legal advice.

Who can request a referral?

Under the provisions of The Planning Act, any individual or group with an interest in a matter may request the Minister of Housing to refer a proposed official plan or amendment to the OMB for a hearing. In a regional municipality that has been delegated official plan approval power, anyone requesting a referral should write to the chairman of regional council rather than to the Minister of Housing.

It must be remembered that you are only requesting a referral. It is the Minister who will make the ultimate decision on whether or not the matter will be referred to the OMB.

How do you request a referral?

All requests for referral must be submitted to:

The Honourable Claude F. Bennett
Minister of Housing
4th Floor
Hearst Block
Queen's Park
Toronto, Ontario
M7A 2K5

The submission should state clearly that you wish to request a referral. Statements such as "I object" or "I disagree" do not make it clear that a referral is requested. Upon receipt of the request, the Minister will study the matter and decide whether or not to refer the matter to the OMB. Since the Minister's decision is final, a request for referral must be submitted to the Minister before he has approved the plan.

What information is necessary?

In order for the Minister to adequately assess any request for referral, certain information should be included with the request. First of all, the type of referral being requested must be made clear: referral of the entire plan under section 44 of The Planning Act or a partial referral under section 15(1). In the case of referral of the entire official plan, the objector should explain why the objection is all inclusive and cannot relate to only part of the plan.

When only a partial referral is desired, the request must identify the portions of the proposed text and/or location and description of the property to be referred. This information must be very specific, including page numbers, first and last words of specific parts, sections and paragraphs or sentences to which the request applies. For the description of lands, a full legal description and maps are appropriate.

Any additional arguments or material that is available in support of a request should also be sent to the Minister, including documentation of negotiations with the municipality.

Consideration of the referral request

When the Minister receives a request for referral, he will consider the reasons for the referral. The Minister has the discretion to decide whether or not the request is frivolous, in good faith or for the purposes of delay only. In some instances, the Minister may suggest that you try to resolve the matter without an OMB hearing. If the Minister decides that the request is legitimate, he will refer the request to the OMB.

How soon will the hearing be held?

Upon receipt of the material from the Minister, the OMB will notify you of the date and location of the hearing. Due to the heavy workload and preparation time, it will often take considerable time for a hearing to take place. The hearing normally is held in your municipality.

A fee of \$25 is charged for each referral request. You will be billed by the OMB once they receive the request from the Minister. You are not required to notify anyone of the hearing as this is the responsibility of the OMB.

*Changes to the referral process may occur as a result of recommendations in the White Paper on The Planning Act.